



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES
P.O. Box 712
Trenton, NJ 08625-0712

CHRIS CHRISTIE
Governor

ELIZABETH CONNOLLY
Acting Commissioner

KIM GUADAGNO
Lt. Governor

MEGHAN DAVEY
Director

STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES

M.T.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES AND
ATLANTIC COUNTY BOARD OF
SOCIAL SERVICES,

RESPONDENTS.

Vertical line of dots separating the parties from the case details.

ADMINISTRATIVE ACTION

FINAL AGENCY DECISION

OAL DKT. NO. HMA 02698-17
(On Remand from HMA 13332-16)

As Director of the Division of Medical Assistance and Health Services, I
have reviewed the record in this case, including the Initial Decision, the
documents in evidence. Neither Party filed exceptions. Procedurally, the time
period for the Agency Head to file a Final Decision is September 1, 2017, in
accordance with accordance with N.J.S.A. 52:14B-10 which requires an Agency

Head to adopt, reject, or modify the Initial Decision within 45 days of the agency's receipt. The Initial Decision was received on July 18, 2017.

Based upon my review of the record, I hereby adopt the findings and conclusions of the Administrative Law Judge in their entirety and I incorporate the same herein by reference. At issue is a 412 day penalty imposed due to the transfer of Petitioner's residence for less than fair market value. The tax assessed value of Petitioner's house was \$220,500. The Atlantic County Board of Social Services (ACBSS) utilized the 2015 Equalized Valuation Ratio of 1.0147 to adjust the fair market value to \$217,305. Petitioner's house was initially listed for \$189,900. The listing price of the home was eventually reduced and sold for \$80,000.

In determining Medicaid eligibility for someone seeking institutionalized benefits, the counties must review five years of financial history. Under the regulations, "[i]f an individual . . . (including any person acting with power of attorney or as a guardian for such individual) has sold, given away, or otherwise transferred any assets (including any interest in an asset or future rights to an asset) within the look-back period" a transfer penalty of ineligibility is assessed.¹ N.J.A.C. 10:71-4.10 (c). It is Petitioner's burden to overcome the presumption that the transfer was done – even in part – to establish Medicaid eligibility. The presumption that the transfer of assets was done to qualify for Medicaid benefits may be rebutted "by presenting convincing evidence that the assets were

¹ Congress understands that applicants and their families contemplate positioning assets to achieve Medicaid benefits long before ever applying. To that end, Congress extended the look back period from three years to five years. Deficit Reduction Act of 2005, P.L. 109-171, § 6011 (Feb. 8, 2006).

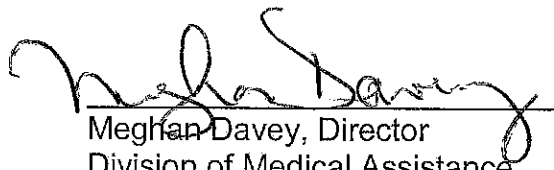
transferred exclusively (that is, solely) for some other purpose." N.J.A.C. 10:71-4.10(j).

The ALJ found that Petitioner did not present any evidence to establish that the fair market value of the home was \$80,000. N.J.A.C. 10:71-4.10 requires a penalty when assets have been transferred during the look back period. Petitioner offered no corroborating evidence to establish that these transfers were done for a purpose other than to qualify for Medicaid benefits. Petitioner was unable to rebut the presumption that the transfers were for less than fair market value. N.J.A.C. 10:71-4.10(j).

THEREFORE, it is on this 29th day of AUGUST 2017,

ORDERED:

That the Initial Decision is ADOPTED;


Meghan Davey, Director
Division of Medical Assistance
and Health Services